

BUDGET LETTER

SUBJECT: CONTROL SECTION 11.00—CONTRACTS ASSOCIATED WITH INFORMATION TECHNOLOGY PROJECTS CONTROL SECTION 11.10—STATEWIDE SOFTWARE LICENSE AGREEMENTS	NUMBER: 13-25
REFERENCES: BUDGET ACT OF 2013 (CHAPTER 20 OF THE STATUTES OF 2013)	DATE ISSUED: October 1, 2013
	SUPERSEDES: BL 12-14

TO: Agency Secretaries
Agency Information Officers
Department Directors
Department Budget Officers
Department Chief Information Officers
Department Accounting Officers
Department of Finance Budget and Accounting Staff

FROM: DEPARTMENT OF FINANCE

Pursuant to Control Sections 11.00 and 11.10 of the Budget Act of 2013, certain contracts associated with information technology (IT) projects, statewide software license agreements, and associated amendments must be approved by the Director of the Department of Finance (Finance) and reported to the Legislature. For the purposes of this Budget Letter, a contract is any of the following enforceable agreements: (1) service agreements for consultant services including independent oversight, independent verification and validation, and telecommunications (CALNET included), and (2) contracts, purchase orders, and rental and lease agreements for hardware, software, and facilities. Interagency agreements are not considered contracts. The reporting must be made prior to entering into a contract or agreement that exceeds specific dollar thresholds approved for the project or a statewide software license agreement. Control Sections 11.00 and 11.10 reporting allows the Legislature an opportunity to review future funding obligations and enterprise license commitments before they are made.

Control Section 11.00 is the Legislature's means of being informed of contractual agreements associated with IT projects that result, in the aggregate, in an increase in the budgeted cost of a project that exceeds \$500,000 or 10 percent, whichever is **less**, and which may necessitate budget augmentations in **future** years. For purposes of Section 11.00 requirements, an IT project is considered subject to reporting until the department has submitted a Post-Implementation Evaluation Report to the Department of Technology (formerly the California Technology Agency), as required by State Administrative Manual section 4947.

Control Section 11.10 is the Legislature's means of being informed of statewide software license agreements that meet the following criteria: (1) have not been previously approved by the Legislature, and (2) obligate state funds in the current year or future years, whether or not the obligation will result in a net expenditure or savings. A statewide software license agreement is defined as a software license contract that can be used by multiple state agencies.

It is each department's responsibility to determine whether a project or license agreement meets the Control Section 11.00 and/or 11.10 reporting requirements. If the reporting requirements are not clear for any given project or enterprise license agreement, the department should contact Finance's Information Technology Consulting Unit (ITCU). Additionally, in the interest of time and to avoid unnecessary delays, departments are encouraged to submit a draft version of the Section 11.00/11.10 Application to Finance's ITCU for review prior to submittal of a signed final version. After review and approval of the final application, Finance will notify the Legislature.

Departments should be aware of the possible consequences of entering into a contract without providing such notification when notification is required. If notification is not provided and the Legislature later determines that notification should have been given, the project or enterprise agreement and its associated funding will be at risk.

Reporting Requirements and Applicability Test

Under certain conditions, Control Sections 11.00 and 11.10 require Finance approval and 30-day notification to the Joint Legislative Budget Committee and the legislative fiscal committees prior to a department entering into a contract associated with an IT project, statewide software license agreements, or their associated amendments. Below are the criteria for reporting via Control Section 11.00 or 11.10. However, departments should also complete the Applicability Test (described on page 3) to determine whether a Section 11.00/11.10 Application is necessary.

Reporting Requirements for Control Section 11.00

- (1) The budgeted cost of the project is subject to legislative review now or anytime in the future; and
- (2) The aggregate cost of the contract(s) increases the approved project cost by \$500,000, or represents a 10 percent project cost increase that equals or exceeds \$100,000, whichever is less; and
- (3) A future year increase in the budgeted cost of the project is required to cover the cost of a contract or contract amendment, and the cost is:
 - (a) Not identified in a budget year augmentation submitted to the Legislature (e.g., Finance Letter); or
 - (b) Included in a budget year augmentation submitted to the Legislature, but the Legislature will not have the opportunity to act on the budget document prior to execution or contract amendment.

Control Section 11.00 reporting criteria apply to any contract or amendment or combination of contracts and amendments associated with an IT project that would result in a total project increase. This is applicable whether the increase occurs in fiscal year 2013-14 or any subsequent fiscal year.

Reporting Requirements for Control Section 11.10

- (1) The proposed agreement is for a statewide software license that has not been previously approved by the Legislature and that obligates state funds in the current year or future years, whether or not the obligation will result in a net expenditure or savings; and

- (2) The total amount of the proposed agreement or amendment is \$1 million or greater in the aggregate.

In addition, **all** statewide software license agreements, regardless of the amount, require business proposals which, at a minimum, must include the following information:

- (1) An analysis of the current installed base to be covered under the statewide software license agreement, including the software products, the license type, and the number of users associated with each license;
- (2) Projections of anticipated use over the term of the agreement, including the products to be covered under the agreement, the license type, and the number of users associated with each license. The business proposal must include the assumptions used to develop the projections;
- (3) An analysis of feasible alternatives, including a justification for selecting a statewide software license agreement over other alternatives, such as a volume purchase agreement. The justification must include a detailed cost/benefit analysis comparing the proposed statewide software license agreement against the alternatives discussed; and
- (4) A cost allocation methodology and funding plan that explains how costs will be allocated across user departments and identifies the associated funding sources for each entity utilizing the agreement.

Statewide software license agreements exceeding the \$1 million Control Section 11.10 reporting threshold require Finance approval of the business proposal. For statewide software license agreements and their associated amendments that do not exceed the specified reporting threshold, business proposal approval is delegated to the department. Subsequent amendments that increase the agreement over the \$1 million aggregate threshold require amended business proposals, which must be submitted to Finance's ITCU for review and approval. In these cases, the department should be prepared to provide copies of prior versions of business proposals prepared under its delegated authority, if requested by Finance.

Applicability Test

To determine the applicability of Control Section 11.00 for contract transactions or Control Section 11.10 for statewide software license agreements, Applicability Tests are included as Exhibits 1, 1a, and 1b. Departments are responsible for determining applicability and submitting the necessary information as outlined in "Submittal to Finance" below if the contract transactions meet the reporting requirements of Control Section 11.00 or 11.10.

Submittal to Finance

To report transactions subject to Control Section 11.00, departments are required to complete and submit two copies of the completed Applicability Test (Exhibits 1 and 1a) and two copies of the Section 11.00/11.10 Application (Exhibit 2) to the Department of Finance, Information Technology Consulting Unit, 915 L Street, Sacramento, CA 95814. The application form will serve as an attachment to a transmittal letter to the Legislature prepared by Finance following review and approval of the application.

To report transactions subject to Control Section 11.10, submit two copies of the business proposal to the ITCU at the address listed above. Business proposals must be signed by the Department Director (or designee), the Budget Officer, and the Chief Information Officer. Include with the business proposal two copies of the completed Applicability Test (Exhibits 1 and 1b) and two copies of the Section 11.00/11.10 Application (Exhibit 2). The application form will serve as an attachment to Finance's transmittal letter to the Legislature.

To report transactions subject to both Control Sections 11.00 and 11.10, submit two copies of the business proposal and the completed Applicability Test (Exhibits 1, 1a, and 1b). However, each type of transaction must be reported on a separate application form (Exhibit 2) (i.e., do not combine Control Section 11.00 and 11.10 reporting on the same application form). Complete one application form for each type of transaction, and submit two copies of each application form with the business proposal and Applicability Test. The Control Sections 11.00/11.10 Applicability Test and application forms are available online on the Budget Letter page of the Finance website (<http://www.dof.ca.gov/html/budletr/letters.htm>).

As previously noted, departments are encouraged to contact ITCU staff to discuss any questions or concerns regarding submittal of Section 11.00/11.10 Applications. In the interest of time, and to avoid unnecessary delays, departments are encouraged to submit a draft version of the Section 11.00/11.10 Application to Finance's ITCU for review prior to submittal of a signed final version.

If you have any questions, please contact Susan Davis-James, Chief, Information Technology Consulting Unit at (916) 445-1777, extension 3238.

/s/ Erika Li for

Richard Gillihan
Program Budget Manager

Attachments